



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

NORTHWEST TX HOSPITAL

3255 W PIONEER PKWY

ARLINGTON, TX 76013

Respondent Name

LUMBERMENS MUTUAL CASUALTY CO

MFDR Tracking Number

M4-07-8229-01

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary Dated August 2, 2007: "Stoploss rule 134.40 charges over 40k reimbursed at 75% of billed charges."

Amount in Dispute: \$40,011.33

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary Dated September 14, 2007: "...nowhere in any of the submitted documentation does the Requestor indicate the services were unusually extensive or costly or anything other than routine... The Requestor has not justified its entitlement to further reimbursement, and is therefore not due any further funds."

Response Submitted by: Hanna & Plaut LLP. 106 East Sixth Street, Suite 600, Austin, Texas 78701.

SUMMARY OF FINDINGS

Disputed Dates	Disputed Services	Amount In Dispute	Amount Due
January 15, 2007 through January 18, 2007	Inpatient Hospital Services	\$40,011.33	\$0.00

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.305 and §133.307, 31 *Texas Register* 10314, applicable to requests filed on or after January 15, 2007, sets out the procedures for resolving medical fee disputes.

2. 28 Texas Administrative Code §134.401, 22 *Texas Register* 6264, effective August 1, 1997, sets out the fee guidelines for inpatient services rendered in an acute care hospital.

The services in dispute were reduced/denied by the respondent with the following reason codes:

Explanation of Benefits dated March 15, 2007

- 147 – Provider contracted/negotiated rate expired or not on file.
- 5 – The procedure code/bill type is inconsistent with the place of service. \$0.00
- 96 – Non-covered charge(s). This change to be effective 04/01/2007: At least one Remark code must be provided (may be comprised of either the Remittance Advice Remark Code or NCPDP reject Reason Code). \$0.00.
- W1 – Workers compensation state fee schedule adjustment. \$0.00
- W1 – Workers compensation state fee schedule adjustment.
- W1 – Workers compensation state fee schedule adjustment. \$0.00
- W1 – Workers compensation state fee schedule adjustment. \$3354.00

Explanation of Benefits dated April 16, 2007

- 112-003 – the primary provider is a non-contracted provider.
- 147 – Provider contracted/negotiated rate expired or not on file.
- 864-999 – Invoice necessary for reimbursement 40.00.
- 868-999 – Intra-operative nursing record/implant record required for payment. \$0.00
- 870– Personal items not covered. \$0.00.
- 885-999 –Review of this code has resulted in an adjusted reimbursement of \$0.00.
- 885-999 – Review of this code has resulted in an adjusted reimbursement of \$3,354.00.
- 900 – Based on further review, no additional allowance is warranted.
- 96 – Non-covered charge(s). This change to be effective 04/01/2007: At least one Remark code must be provided (may be comprised of either the Remittance Advice Remark Code or NCPDP reject Reason Code). \$0.00.
- 975-640 – Nurse review in-patient hospital/facility/supply house.
- 951 – Reviewed by medical director.
- W1 – Workers compensation state fee schedule adjustment. \$0.00
- W1 – Workers compensation state fee schedule adjustment. \$3354.00
- W4 – No additional reimbursement allowed after review of appeal/reconsideration.

Explanation of Benefits dated May 23, 2007

- 112-003 – the primary provider is a non-contracted provider.
- 147 – Provider contracted/negotiated rate expired or not on file.
- 18 – Duplicate claim/service. 88-U-5961380-2.
- 476 – \$30,422.61 of the charges are duplicates of bill #88-U-5961380-2.
- 993 – This service is not reimbursable.
- W1 – Workers compensation state fee schedule adjustment.

Issues

1. Did the audited charges exceed \$40,000.00?
2. Did the admission in dispute involve unusually extensive services?
3. Did the admission in dispute involve unusually costly services?
4. Is the requestor entitled to additional reimbursement?

Findings

This dispute relates to inpatient surgical services provided in a hospital setting with reimbursement subject to the provisions of Division rule at 28 Texas Administrative Code §134.401, titled *Acute Care Inpatient Hospital Fee Guideline*, effective August 1, 1997, 22 *Texas Register* 6264. The Third Court of Appeals' November 13, 2008 opinion in *Texas Mutual Insurance Company v. Vista Community Medical Center, LLP*, 275 *South Western Reporter Third* 538, 550 (Texas Appeals – Austin 2008, petition denied) addressed a challenge to the interpretation of 28 Texas Administrative Code §134.401. The Court concluded that "to be eligible for

reimbursement under the Stop-Loss Exception, a hospital must demonstrate that the total audited charges exceed \$40,000 and that an admission involved unusually costly and unusually extensive services.” Both the requestor and respondent in this case were notified via form letter that the mandate for the decision cited above was issued on January 19, 2011. Each was given the opportunity to supplement their original MDR submission, position or response as applicable. The documentation filed by the requestor and respondent to date will be considered in determining whether the admission in dispute is eligible for reimbursement under the stop-loss method of payment. Consistent with the Third Court of Appeals’ November 13, 2008 opinion, the division will address whether the total audited charges **in this case** exceed \$40,000; whether the admission and disputed services **in this case** are unusually extensive; and whether the admission and disputed services **in this case** are unusually costly. 28 Texas Administrative Code §134.401(c)(2)(C) states, in pertinent part, that “Independent reimbursement is allowed on a case-by-case basis if the particular case exceeds the stop-loss threshold as described in paragraph (6) of this subsection...” 28 Texas Administrative Code §134.401(c)(6) puts forth the requirements to meet the three factors that will be discussed.

1. 28 Texas Administrative Code §134.401(c)(6)(A)(i) states “...to be eligible for stop-loss payment the total audited charges for a hospital admission must exceed \$40,000, the minimum stop-loss threshold.” Furthermore, (A) (v) of that same section states “...Audited charges are those charges which remain after a bill review by the insurance carrier has been performed...” Review of the explanation of benefits issued by the carrier finds that the carrier did not deduct any charges in accordance with §134.401(c)(6)(A)(v); therefore the audited charges equal \$57,817.61. The division concludes that the total audited charges exceed \$40,000.
2. The requestor in its original position statement asserts that “Stoploss rule 134.40 charges over 40k reimbursed at 75% of billed charges.” In its position statement, the requestor presupposes that it is entitled to the stop loss method of payment. The Third Court of Appeals in its November 13, 2008 concluded that “to be eligible for reimbursement under the Stop-Loss Exception, a hospital must demonstrate that the total audited charges exceed \$40,000 and that an admission involved...unusually extensive services.” The requestor failed to discuss or demonstrate that the particulars of the admission in dispute that constitute unusually extensive services; therefore, the division finds that the requestor did not meet 28 TAC §134.401(c)(6).
3. In regards to whether the services were unusually costly, the requestor presupposes that the stop loss method of payment should apply. The third Court of Appeals’ November 13, 2008 opinion concluded that in order to be eligible for reimbursement under the stop-loss exception, a hospital must **demonstrate** that an admission involved unusually costly services thereby affirming 28 Texas Administrative Code §134.401(c)(6) which states that “Stop-loss is an independent reimbursement methodology established to ensure fair and reasonable compensation to the hospital for unusually costly services rendered during treatment to an injured worker.” The requestor failed to discuss the particulars of the admission in dispute that may constitute unusually costly services; therefore, the division finds that the requestor failed to meet 28 TAC §134.401(c)(6).
4. For the reasons stated above the services in dispute are not eligible for the stop-loss method of reimbursement. Consequently, reimbursement shall be calculated pursuant to 28 Texas Administrative Code §134.401(c)(1) titled *Standard Per Diem Amount* and §134.401(c)(4) titled *Additional Reimbursements*. The division notes that additional reimbursements under §134.401(c)(4) apply only to bills that do not reach the stop-loss threshold described in subsection (c)(6) of this section.
 - Review of the submitted documentation finds that the services provided were surgical; therefore the standard per diem amount of \$1,118.00 per day applies. Division rule at 28 Texas Administrative Code §134.401(c)(3)(ii) states, in pertinent part, that “The applicable Workers’ Compensation Standard Per Diem Amount (SPDA) is multiplied by the length of stay (LOS) for admission...” The length of stay was three days. The surgical per diem rate of \$1,118.00 multiplied by the length of stay of three days results in an allowable amount of \$3,354.00.
 - Review of the medical documentation provided finds that although the requestor billed items under revenue code(s) 275, 276 or 278, no invoices were found to support the cost of the implantables billed. For that reason, no additional reimbursement is recommended.

The division concludes that the total allowable for this admission is \$3,354.00 per diem. The respondent issued payment in the amount of \$22,322.00. Based upon the documentation submitted, no additional reimbursement can be recommended.

Conclusion

The submitted documentation does not support the reimbursement amount sought by the requestor. The requestor in this case demonstrated that the audited charges exceed \$40,000, but failed to discuss and

demonstrate that the disputed inpatient hospital admission involved unusually extensive, and unusually costly services. Consequently, 28 Texas Administrative Code §134.401(c)(1) titled *Standard Per Diem Amount*, and §134.401(c)(4) titled *Additional Reimbursements* are applied and result in no additional reimbursement.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the division has determined that the requestor is entitled to \$0.00 reimbursement for the disputed services.

Authorized Signature

_____ Signature	_____ Medical Fee Dispute Resolution Officer	_____ October 22, 2012 Date
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_____ Signature	_____ Medical Fee Dispute Resolution	_____ October 22, 2012 Date
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YOUR RIGHT TO APPEAL

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision* together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party.****

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.